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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

KRISTIN GUSTAFF,)	
)	Case No. 3:16-cv-1753
Plaintiff,)	
)	COMPLAINT
v.)	(Breach of Insurance
)	Contract)
USAA CASUALTY INSURANCE)	
COMPANY ,)	JURY TRIAL REQUESTED
)	
Defendant.)	

NATURE OF ACTION

1. This is an action by plaintiff against her insurer, USAA Casualty Insurance Company ("defendant" or "USAA"), to recover on a loss incurred by plaintiff. Although the insurance policy issued to plaintiff by USAA provides coverage, USAA has failed and refused to provide full indemnity owed under the policy.

PARTIES

2. Plaintiff Kristin Gustaff is the owner of property located in Multnomah County, Oregon (the "property").

3. Defendant is, and at all material times mentioned herein was, a corporation authorized to transact and transacting insurance in the state of Oregon. USAA's state of incorporation is Texas and its principal place of business is in Texas.

JURISDICTION

4. Jurisdiction is proper pursuant to 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the action is between citizens of different states.

5. Venue is proper pursuant to 28 U.S.C. § 1391(a).

CLAIM
(Breach of Contract)

COUNT ONE
(Breach of Express Contract)

6. USAA issued and delivered to plaintiff a homeowners policy.

7. The policy provided insurance against accidental loss or damage, including but not limited to structure, contents, and additional living expense (ALE).

8. While the policy was in full force and effect, on March 18, 2015, plaintiff's home suffered accidental damage.

9. Plaintiff has fully complied with each and every term, condition and provision of the policy.

10. USAA has only partially paid plaintiff's losses. There remains due and owing by defendant to plaintiff the amount of \$125,000.

11. Plaintiff is entitled to attorney fees under O.R.S. 742.061.

COUNT TWO
(Breach of Implied Covenant)

12. Plaintiff realleges and incorporates by reference the allegations in paragraphs 1-11.

13. Defendant failed to make payment and refused to make payment for covered losses, in violation of the policy of insurance, thus causing damages to plaintiff.

14. Defendant violated the implied covenant of good faith and fair dealing in failing properly to investigate the loss, adjust the claim, and pay plaintiff for all the losses sustained, causing damages to plaintiff:

- a. On or about March 18, 2015, plaintiff suffered accidental damage to her home.
- b. Plaintiff promptly reported the loss.
- c. More than six months have passed since proof of loss.

15. It was foreseeable to defendant that if it breached its obligations under the insurance policy, plaintiff would suffer damages.

16. As a result of the breach of contract by defendant, plaintiff has suffered damages as set forth in paragraph 10.

WHEREFORE, plaintiff prays for judgment against defendant as follows:

- (a) For damages in the amount of \$125,000;
 - (b) For reasonable attorney fees to be determined by the court pursuant to O.R.S. 742.061;
 - (c) For prejudgment interest from March 18, 2015;
 - (d) For plaintiff's costs and disbursements incurred in this action;
- and

- (e) For such other and further relief as the court deems just and equitable.

Dated this 1st day of September, 2016.

SHENKER & BONAPARTE, LLP

By /s/ Robert E.L. Bonaparte
Robert E.L. Bonaparte, OSB No. 883411
Of Attorneys for Plaintiff